

September 16-17, 2004

IDAHO CHARTER SCHOOL COMMISSION

Meeting Minutes

September 16-17, 2004

Boise, Idaho

A regular meeting of the Idaho Charter School Commission was held on September 16, 2004, (at the Len B. Jordan Building, PTE Conference Room) and September 17, 2004 (at Boise State University) in Boise, Idaho. Chairman Jim Hammond presided.

Present:

Jim Hammond

Marianne Donnelly

Bill Goesling

Esther Van Wart

Kirk Miller

Paul Powell

Ann Souza

EXECUTIVE SESSION

M/S (Goesling/Donnelly): To enter into executive session on September 16, 2004, pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f). *A roll call vote was taken. The motion carried unanimously.*

In executive session, the Commission considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

The open meeting convened at 8:12 a.m. on September 17, 2004, in the Lookout Room at Boise State University.

1. COMMISSION WORK

a) Agenda Approval

Chairman Hammond requested time during Commission Work for open discussion with the charter petitioners in general, before moving to individual petitions, noting it was not to be considered an open forum.

M/S (Goesling/Donnelly): To approve agenda. *The motion carried unanimously.*

b) Rolling Calendar

M/S (Van Wart/Donnelly): To approve October 28, 2004 as the next meeting date and Boise State University as the location. *The motion carried unanimously.*

c) Minutes Approval

The following changes were made in the July 20-21, 2004 meeting minutes: page 2, correct, "No new"; page 16, change student to "students" in sentence reading, "to allow different student to attend"; page 17, fourth sentence under Commissioner Miller changed to read "students work on/in the classroom based on arts and music"; in the second sentence, delete "is"; page 18, Commissioner Van Wart attended in 2004 not 2204.

M/S (Van Wart/Donnelly): To approve the minutes as amended. *The motion carried unanimously.*

Chairman Hammond emphasized the Commission's goal is to have successful charter schools in place. It is committed to working with petitioners towards that end.

The Commission invited representatives from Rolling Hills, Compass, and Falcon Ridge Charters to join the Commission at the table for a general discussion because there were similar points of concern with these charters.

The Commission explained it can't provide the same kind of assistance to petitioners as a school district can. However, the Commission understands that clear guidelines and effective communication must be available to petitioners so they are able to submit complete, clean and coherent documents.

There was lengthy discussion about legal liability issues related to schools not authorized but the local school district. Schools authorized by the Commission will be responsible for the federal programs and funds, which flow to them from the State Board of Education. Therefore, petitions need to show consideration for the overhead related to that. They need a specific plan in place to address these issues. Deputy Attorney General Susan Campbell will follow-up on a legal opinion regarding the liability issues and will also request a copy of an email from Department of Education staff pertaining to the legal liability placed on a school district if it authorizes a charter school. She reiterated that public schools must provide for special education students so petitions must have specific language and budget detail; they cannot be ambiguous.

In terms of providing guidance to petitioners, it was agreed a punch-list should be created. The punch-list should include minimum levels for approval and allow additional opportunity for follow-up by the Commission. A punch-list would help to improve communication on both sides.

As far as the timing of the sufficiency review, staff explained that the new rules approved by the State Board of Education require those reviews be done before petitioners submit their petition to a chartering entity.

When asked about drop-dead dates, Compass Charter School responded “today”, explaining that until the charter is approved the final details for land and facilities can’t be worked out. Rolling Hills Charter School needs to hire an administrator and instructors no later than January and asked that their petition be approved upon conditions in the punch-list. Falcon Ridge Charter School would be on the same time line.

In discussing the timing issue and the six-per-year issue, the Commission indicated that staff is seeking a legal determination as to how virtual schools fit into the whole issue. In discussing the review of the petitions by staff, Deputy Attorney General Kent Nelson said the review would be provided on paper versus an electronic version.

2. ROLLING HILLS CHARTER SCHOOL

The Commission and the Rolling Hills petitioners discussed various issues related to the petition, clarifying what was in the petition, what needed to be addressed and what needed to be added or revised.

The petitioners were asked to delete language requiring a Commission member or designee to act as a liaison. As far as special education services, Rolling Hills will work with both the Meridian and the Boise school districts.

In regards to the signing of contracts, the Commission's function is to make sure the charter school complies with their charter and the education laws that are adopted. Rolling Hills is in the process of obtaining liability insurance; it indemnifies the authorizer.

Rolling Hills is working with the Department of Education to complete the sufficiency review and will make necessary changes as indicated. The performance standards used to evaluate progress will be the same as Hidden Springs; as a public school they will comply with the law.

In reference to page 24, E-1, RHPCS of the petition where it says, “will notify the Idaho State Charter School Commission in the event that a formal complaint or due process hearing is filed by or on behalf of one of your students,” Rolling Hills will indemnify and hold harmless the authorizer, but Rolling Hills will keep the Commission advised of every situation.

Rolling Hills will submit a complete curriculum; a curriculum outline has been submitted to the Department of Education. As far as providing access to all students, Rolling Hills will hire a Spanish teacher for their foreign language and will also recruit students in English and Spanish.

M/S (Goesling/Miller): To approve the Rolling Hills Charter with the following conditions:

- 1) On page 24 under E-1, be rewritten to remove the Commission's responsibility for a formal complaint;
- 2) An updated special education plan be submitted within 30 days of the Commission process and include numbers;
- 3) Review and approval of all contracts for the services in all areas, not just special education, bringing forth to the Commission;
- 4) No assumptions of the obligation of liability by this Commission;
- 5) The petition requiring the Commission appoint a designee as an administrator be rewritten to remove that requirement;
- 6) That the Charter will address the petition provision on dispute resolution on page 41;
- 7) On page 11 the Commission designee identified as a non-voting member of your board will be removed.
- 8) Special Education and LEP plan will be updated and submitted within 60 days, including a section with respect to child search.
- 9) Prior to operations, the Rolling Hills Charter School will provide the Commission copies of all contracts for services and proof of insurance and failure to do so would be a potential revocation of the charter under 335209.
- 10) State which school year for which the approval is being given, (requesting 2005).
- 11) Recognize that things are changing; keep open lines of communication going including school district and Commission.
- 12) Expect (conduct) a semi-annual review in 6 months from today.

The motion carried unanimously.

The Commission discussed the motion. It was clarified and agreed to by Commissioners Goesling and Miller that the six months review would occur six months from the date of approval. Chairman Hammond pointed out, and the Rolling Hills petitioners indicated they understood, that the motion's passage means the charter is approved and Rolling Hills must comply with its terms.

3. COMPASS CHARTER SCHOOL

The Commission and the Compass Public Charter School petitioners discussed various issues related to the petition, clarifying what was in the petition, and identifying what needed to be addressed and what needed to be added or revised.

There was discussion about the issue of the sufficiency review, evaluation process, curriculum and provisions for transportation and food services. In regards to the service area, Compass petitioners explained the proposal noting it was willing to amend it as necessary.

There was discussion about the budget and the amount identified as the facilities annual fee. Steve Adams of Charter Advocates addressed the projection and explained that in consideration of land donated to them, modular estimates, bids and offers and research they have conducted, the number is good.

In reference to a report from the Department of Education (page 8 of 12) having to do with the sufficiency review, the petitioners agreed to delete wording having to do with the response to complaints.

Regarding a statement made at a previous meeting that the Compass School's emphasis on art and music would set them apart from other charters, the petitioners explained that emphasis would not take anything away from reading, math, history, etc. Compass wants to include the elementary through eighth grades and then add the high school grades. This will make them unique as well.

In discussing the budget, provision for growth and training came up. Petitioners indicated they had studied the Liberty Charter when developing projections for growth.

It was reiterated that the school must be able to provide special education services and the petitioners indicated that they had looked at several options for doing that.

The Commission raised other points of concern, including performance standards, transportation funding and budget projections. The petitioners respectfully requested that the Commission approve the Compass Charter School with conditions at this meeting.

M/S (Powell/): To approve the Compass Charter School in the fall of 2005 with the following conditions: effectively incorporating the legal sufficiency reviews and clarifying the area for the school. *Motion failed for a lack of a second.*

Substitute Motion: (Goesling/Donnelly): To continue with the Compass School under advisement of the following: (a) time to review; (b) how it will address IEP areas; (c) discuss annual audits of budgets; (d) clarification of LEA; (e) the concept with respect to budget and building costs; requiring more information for these issues. *The motion carried unanimously.*

In response to an inquiry from the Compass School petitioners, Chairman Hammond suggested the Commission work through Karen Echeverria at the Office of the State Board. He asked that all suggestions and related materials be ready before the next meeting.

4. IDAHO VIRTUAL ACADEMY

The Commission and the Idaho Virtual Academy representatives discussed various issues related to the petition, clarifying what was in the petition, and identifying what

needed to be addressed and what needed to be added or revised.

Petitioners explained their desire to transfer their charter from Butte County School District to the Charter School Commission. They are now a statewide virtual LEA.

There was discussion about safeguards taken regarding equipment and home computers. Concerns were raised pertaining to fiduciary responsibility, program oversight, audit controls and checks and balances in terms of the role the Commission would play in the operation of this school.

The petitioners indicated that it had met AYP goals and federal mandates, and though they are below state averages they expect those numbers to come up. They are disaggregating data regarding their population. The Commission said that information would be valuable to the Commission due to the unique population of the Academy.

The Commission discussed several concerns it had about the budget materials included in the charter petition documents and the Academy explained budget details provided to the Commission noting it is independently audited.

In regards to child search, the petitioners were asked what their approach would be if they come under the oversight of the Commission. Child search is and will be conducted through their special education department as well as through postings, questionnaires and other means to ensure that federal obligations were met throughout the state of Idaho. The Academy is working on their plan and it is under review by the Department of Education.

The Academy reported that teachers are hired and evaluated by the board of trustees. The administrators are K-12 employees as are the teachers. The board of trustees signs the contracts.

In response to an inquiry, the Academy noted that a new procedure to have testing labs available in regional locations was implemented to ensure that all students are able to take the tests. On the issue of enrollment procedures, all students must provide proof-of-residency and the Academy is rewriting the charter petition so that it is in compliance with state policy.

A number of other points were made where clarification, rewrite, or inclusion of materials was needed. The Academy petitioners affirmed that they were under the authorization of the Butte County School District until such time as the Commission approves their petition to transfer oversight of the Academy to the Commission. That being the case, the Academy petitioners will work on the petition to ensure it is complete and correct.

During a discussion about contracts, Deputy Attorney General Campbell pointed out that the Commission would have no jurisdiction as it relates to the actual contracts

between the school and the K-12 entity. Chairman Hammond noted it would be no different from contracts that other schools have with a special education or a transportation provider. Deputy Attorney General Campbell agreed. In response to an inquiry, Deputy Attorney General Campbell indicated she was of the opinion that the Commission could not put language into the charter to offset what was in the contract, but will confirm that opinion.

An Academy representative referred to a provision in the funding formula that allows public schools to contract out administrative, classified and teacher services. It is part of Section 33-10045(a) Idaho Code.

M/S (Goesling/ Donnelly): Motion to table this discussion until the October 28, 2004 meeting of the Commission. *The motion carried unanimously.*

5. IDAHO VIRTUAL HIGH SCHOOL/RICHARD MCKENNA CHARTER SCHOOL

The Commission and the Idaho Virtual High School/Richard McKenna Charter School representatives discussed various issues related to the petition, clarifying what was in the petition, and identifying what needed to be addressed and what needed to be added or revised. Petitioners noted the school changed its name to Richard McKenna Charter School to avoid confusion with the Idaho Digital Learning Academy and the Idaho Virtual Academy for that purpose.

The Richard McKenna Charter School petitioners reported that since their last meeting with the Commission, a new set of petition signatures had been collected and verified. They were also able to provide clarification regarding the on-site program in Mountain Home for at-risk students. It was noted that on-site students' online use is the largest portion of what they do.

Chairman Hammond requested the Deputy Attorney General to provide input regarding "brick and mortar" versus "virtual" schools. Deputy Attorney General Nelson indicated that he and Deputy Attorney General Campbell had reviewed the issue of a combined operation. In the context of a definition of a public virtual school, the definition essentially says it provides education primarily through distance learning. Legislation passed in 2004 focused solely on delivery of education in the virtual fashion, not on a public virtual school that also had a traditional educational component; therefore, funding and attendance become an issue. That doesn't mean, however, that these schools can't move forward with a petition to this Commission addressing their actual and recognized virtual component; and if the Legislature clears up the point of combined schools, they could include a brick and mortar component later on. Deputy Attorney General Nelson said that at this point, this is a conservative analysis because it doesn't appear that the Legislature contemplated this arrangement.

The petitioners responded that they had interpreted the legislation to mean a public virtual school was the primary method of delivery, but not necessarily exclusively. They

went on to explain that part of their original charter was to teach kids on-site as well, even though the main thing they do is online coursework. Currently, they have 400 students and count attendance with the state whether on-site or online using the state's methods and formulas.

Tim Hill from the Department of Education explained to the Commission the ADA funding for a school with students primarily instructed online and another number of students primarily instructed in a brick and mortar setting. He noted that their goal is to make sure that a student in a virtual setting is being funded the same as a student in a traditional setting. The challenge becomes what to measure so a common sense approach is being taken. Seat time, with a minimum of four hours in grades 1-12, constitutes a full day of attendance. They identified equivalents in the secondary and elementary courses; a student in the virtual academies would receive the equivalent of that grade level and that would constitute the same equivalent funding in the brick and mortar.

In response to an inquiry about generating revenue through attendance, the petitioners responded that on-site students are counted by "sight" because you can see them and online students are counted using a flat rate model where every assignment in every course is worth so much time. Those numbers are what are submitted to the state, whether its hours online or education online, it ends up being the same report to the state.

There was discussion about students being able to attend the virtual high school for dual-enrollment purposes or as part-time students making up or gaining additional credits. The petitioners said that the state will pay for only one full-time equivalent and they have been careful not to cross that line.

In discussing staffing and curriculum development, the petitioners reported that curriculum was developed using the state standards as a guide. Online courses were designed to meet the state achievement standards and named "The Acquired Learning Curriculum." Staff consists of 19 teachers and a special education teacher/director.

M/S (Souza/Goesling): To authorize the Idaho High School/Richard McKenna Charter School. *The motion carried unanimously.*

As a point of clarification, it was noted that this motion was for the 2004-2005 school year.

6. FALCON RIDGE PUBLIC CHARTER SCHOOL

The Commission and the Falcon Ridge Public Charter School representatives discussed various issues related to the petition, clarifying what was in the petition, and identifying what needed to be addressed and what needed to be added or revised.

The petitioners summarized the reasons for initiating their charter and noted they have the support of the community and a good working relationship with the Kuna School District. Falcon Ridge desires to start with K-8 in 2005 and add 9-12 the following year.

The petitioners plan to utilize the blueprints of Liberty Charter School. The first year they would be in mobile units until a building was secured. They are working with landowners for donated land and the mayor of Kuna for grants as well as on other issues. The school district is willing to work with them on busing and school lunches.

The petitioners explained that the legal sufficiency review items can be addressed easily. They are working with the school district on the English as a Second Language (ESL) program and will have an ESL teacher. The Child Search will be active and the charter will receive assistance from Dr. Doug Rutan (Kuna superintendent, former Special Ed Director for Meridian district) on their special education program.

On the point of liability, the Commission expressed frustration about the problem of having two entities charged with carrying out the same mission. In response, Deputy Attorney General Campbell indicated that she had only become aware of some of the issues and needed time to thoroughly address some of the concerns. The petitioners said they had sought legal counsel on the issue and had followed the recommendation to include an indemnity clause in the petition.

There was discussion as to why this petition was coming to the Commission given the obvious support and good working relationship the petitioners had with the local district and community. Chairman Hammond noted that there is no mechanism in place to transfer a school that the Commission charters back to the local school district.

Deputy Attorney General Campbell recommended a continuance until the next hearing date to allow time for the Commission to consider all its options. The Commission agreed a continuance was reasonable and asked the staff of the State Board of Education to pursue the issue of liability that a local district assumes when it authorizes a charter school.

When asked, the Falcon Ridge petitioners indicated they would be prepared to move forward once the liability issue was removed. The Commission asked the petitioners to have answers to the same questions asked of the Compass School petitioners by the next meeting. In addition, they need to address questions about anticipating the need for ESL, revising the budget, requirements for board members, attendance area, etc.

In response to an inquiry, the petitioners noted that all budget information was produced by the principal of Liberty Charter School because Falcon Ridge won't have its own administrator until it is authorized. The petitioners pointed out that they are very much involved in the process of producing and managing the budget and plan to take over that task entirely in the future.

The Commission had some reservations about the amount that was listed for start-up costs. The petitioners reiterated that their board would thoroughly study and revise the budget as appropriate, noting that until the charter is approved they are unable to finalize it.

M/S (Powell/Souza): To defer this petition for consideration until the next meeting. *This motion was amended.*

There was discussion about using the word “advisement” rather than “defer.”

Amended Motion: (Powell/Souza): To take the Falcon Ridge Public Charter School petition under advisement and have it further considered at the Commission’s next meeting. *The motion carried unanimously.*

Chairman Hammond directed Board Office staff to provide the Falcon Ridge petitioners with the same set of questions given to the Compass petitioners. In addition, he requested that the petitioners direct any questions they may have to the Board staff as well.

The Commission concluded the meeting with a directive to Board staff to be available to provide information to, and address the concerns of all the charter schools that may come up before the next meeting.

M/S (Donnelly/Goesling): To adjourn the meeting at 2:18 pm. *The motion carried unanimously.*